

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 36-704

22 JULY 1994



Civilian Personnel

DISCIPLINE AND ADVERSE ACTIONS

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFD 36-7, *Employee and Labor-Management Relations*. It provides instructions for maintaining discipline and for taking disciplinary and adverse actions against certain civilian employees paid with appropriated funds only. Use this AFI with the requirements in Title 5, United States Code, Chapter 75 Subchapters I and II and the Office of Personnel Management's (OPM) implementing regulations in Title 5, Code of Federal Regulations (CFR), Part 752, Subparts A through D, *Adverse Actions*. This instruction directs collecting and maintaining information subject to the Privacy Act of 1974 authorized by 10 U.S.C. 8013. System of Records OPM/GOVT-3, *Records of Adverse Actions, Performane Based Reduction in Grade and Removal Actions, and Termination of Probationers*, applies.

SUMMARY OF REVISIONS

This is the first publication of AFI 36-704, substantially revising AFR 40-750, 23 July 1982. This issuance aligns the instruction with AFD 36-7.

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Section A—General Information

1. **Terms.** Terms used in this instruction are listed in **Attachment 1**.
2. **Employees and Actions Covered by This Instruction and Specific Exclusions:**
 - 2.1. **Employees Covered and Those Excluded.** This instruction applies to employees of the Air Force serving in the competitive and excepted service. Exclusions:
 - 2.1.1. An employee appointed by the President.
 - 2.1.2. Senior Executive Service employees, administrative law judges, and National Guard technicians.

2.1.3. Non-US citizens employed in foreign areas who are not entitled to veteran's preference based on service with the US Uniformed Services. Servicing commands establish policies and procedures covering those employees.

2.1.4. Employees paid with nonappropriated funds.

2.2. Actions Covered and Those Excluded. This instruction applies if management begins disciplinary or adverse personnel actions that affect covered employees. See **Attachment 2** for further clarification. Exclusions:

2.2.1. The removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less of an employee serving in an excepted service, Schedule C position. See paragraph **31.2.1.6.** and **Attachment 2** for the exception to this exclusion.

2.2.2. A separation action against an air traffic controller covered by 5 U.S.C. 2109 and under procedural requirements of sections 3382 or 8335(a).

2.2.3. Certain actions relating to employees in probationary or trial periods or in the first year of current continuous service in the same or similar positions (see paragraph **3.**)—+ to certain employees serving under excepted appointments, and to reemployed annuitants (see **Attachment 2**).

2.2.4. Suspension or removal action for reasons of national security under 5 U.S.C. 7532.

2.2.5. Reduction-in-force action under 5 U.S.C. 3502.

2.2.6. Reduction in grade of a supervisor or manager who has not satisfactorily completed the probationary period under 5 U.S.C. 3321(a)(2) if such a reduction is to the grade held immediately before becoming such a supervisor or manager (see AFI 36-1001, *Performance Management Program*).

2.2.7. Reduction in grade or removal based solely on unacceptable performance under 5 U.S.C. 4303 (see AFI 36-1001).

2.2.8. Action imposed by the Merit Systems Protection Board (MSPB) under the authority of 5 U.S.C. 1206.

2.2.9. Action which entitles an employee to grade retention under 5 CFR, Part 536, and an action to terminate the entitlement.

2.2.10. Voluntary action initiated by the employee such as resignation, retirement (either optional or disability retirement), and reduction in grade or pay.

2.2.11. Actions specifically taken or directed by OPM for disqualification or unsuitability for Federal service under 5 CFR Part 731.

2.2.12. Termination of appointment on the expiration date specified as a basic condition of employment at the time the appointment was made.

2.2.13. Action that terminates a temporary or term promotion and returns the employee to the position from which temporarily promoted, or to a position of equivalent grade and pay, if the employee was informed the promotion would be for a limited time.

2.2.14. Cancellation of a promotion to a position not classified before the promotion.

2.2.15. Placement of an employee serving on an intermittent, part-time, or seasonal basis in a nonduty, nonpay status in accordance with conditions established at the time of appointment.

2.2.16. Reduction of an employee's rate of basic pay from a rate that is contrary to law or regulation to a rate which is required or permitted by law or regulation.

2.2.17. Action taken under provision of statute, other than one codified in title 5, U.S.C., which specifically excepts the action from Subchapter II of 5 U.S.C. 75.

3. Employees in Probationary or Trial Period, or in First Year of Current Continuous Service in the Same or Similar Positions Under Other Than a Temporary Appointment Limited to 1 Year or Less:

3.1. Supervisors must follow the requirements of this instruction when considering an oral admonishment, reprimand, or suspension of less than 15 days. Issue oral admonishments and reprimands under the same conditions and in the same manner as for other employees. If the offense warrants a penalty more severe than a reprimand, supervisors normally will terminate the employee, using procedures applicable to the employee's type of appointment. Supervisors, however, may impose a suspension not to exceed 5 days rather than termination, if a suspension is considered sufficient to rehabilitate the employee.

3.2. For actions against probationers who fail to exhibit fitness for continued employment, see the requirements and procedures in AFI 36-1001.

4. Responsibilities.

4.1. Headquarters USAF, Director of Civilian Personnel Policy and Plans (HQ USAF/DPC).

Sets policy for taking disciplinary and adverse actions against Air Force civilian employees.

4.2. Director, Air Force Personnel Operations Agency (AFPOA). Sets procedures and provides operational guidance, information, advice, and assistance.

4.3. Major Commands (MAJCOM) and Field Operating Agencies (FOA). MAJCOMs and FOAs to which a directorate of civilian personnel or civilian personnel flight (CPF) is assigned:

- Provide supplemental procedures.
- Advise and assist CPFs.

4.4. Commanders: (See AFI 36-102, *Basic Authority and Responsibility for Civilian Personnel Administration and Management*.)

- Make sure employees understand rules, regulations, and other standards of conduct.
- Administer fair, consistent, and correct disciplinary and adverse action programs within their activities according to regulations.

4.5. Civilian Personnel Officers (CPO):

- Help commanders, managers, and supervisors meet requirements for disciplinary and adverse actions.
- Take actions as directed by the OPM, the MSPB, or higher levels of authority or those that fall outside a supervisor's personnel management responsibilities.
- Make sure disciplinary actions and adverse actions comply with law, regulation, and policy.
- Make sure staff members process disciplinary actions and adverse actions according to OPM Operating Manual, *The Guide to Processing Personnel Actions*.

4.6. Supervisors:

- Promote good employee-management relations.
- Create a work environment free from discrimination because of race, color, religion, sex, national origin, age, or physical or mental handicap.
- Keep employees informed of rules, regulations, and standards of conduct, and maintain conduct and discipline according to policy and established procedure.
- Gather, analyze, and carefully consider available facts and circumstances before taking or recommending disciplinary action.
- Make sure efforts are made to minimize the impact of nondisciplinary adverse actions taken against employees.
- Constructively correct employees individually and in private.
- Recommend actions; coordinate proposed and final notices with the CPF, the office of staff judge advocate, and other locally designated staff offices before issuing notices; sign and issue notices of proposed and final actions; and consider answers to proposed actions.
- Prepare to defend any disciplinary action or adverse action taken if the employee contests it.

4.7. Employees:

- Discharge their assigned duties conscientiously.
- Respect the administrative authority of those directing their work.
- Observe laws, regulations, and policies governing their conduct.

5. Authority.

5.1. AFI 36-102, *Basic Authority and Responsibility for Civilian Personnel Management and Administration*, delegates authority to supervisors to initiate corrective action when an employee's performance or conduct is not acceptable.

5.2. Authorized commanders may change the authorities noted below. Make all changes in writing and designate to positions rather than a person's name.

5.2.1. Supervisors sign and issue notices, receive and consider employees' answers, and recommend and make final decisions on actions covered by this instruction. Normally, first-level supervisors perform these functions. Higher level supervisors may also do so.

5.2.2. CPOs and their functional chiefs may sign and issue notices, receive and consider employee's answers, recommend and make final decisions, and take actions directed by appropriate authorities outside the Air Force and higher level authorities within the Air Force.

6. Reviewing and Coordinating Disciplinary and Adverse Actions.

6.1. The CPF:

- Serves as the primary local source of authoritative information and interprets policy and procedures concerning civilian discipline and adverse actions.
- Shares responsibility with managers to ensure that such actions comply with governing requirements.

- Coordinates written notices of proposed actions and final decisions before delivery to employees.

NOTE:

Although not required, the Air Force recommends that supervisors seek advice from a CPF representative before administering an oral admonishment.

6.2. The office of the staff judge advocate reviews notices of proposed adverse actions and notices of final decisions for legal sufficiency.

Section B—Administering Constructive Disciplinary and Adverse Actions

7. General Information. This section gives general guidance to supervisors and managers for the constructive administering of disciplinary and adverse actions. It doesn't establish mandatory procedures.

7.1. Constructive Discipline. Maintaining discipline usually is not a problem within a work environment where supervisors:

- Establish, clearly communicate, and consistently enforce reasonable rules and standards of conduct and performance.
- Set a good example.
- Identify conduct and performance that needs improvement in a way that respects the employee's dignity.
- Treat employees fairly and encourage them to improve.
- Recognize good performers.

7.2. Principles of Constructive Discipline. Constructive discipline is preventive in nature. The objectives are to:

- Develop, correct and rehabilitate employees.
- Encourage employees to accept responsibility.
- Prevent situations where no alternative to taking discipline exists.

7.3. Carrying Out Constructive Discipline. When considering and taking disciplinary action, supervisors:

- 7.3.1. Investigate the alleged offense and consider all available relevant information.
- 7.3.2. Ensure that any action taken is fair, timely, and for good cause and that it complies with applicable law, regulation and policy.
- 7.3.3. Ensure that disciplinary action contributes to the objective of constructive discipline in paragraph 7.2.
- 7.3.4. Conduct interviews and inquiries and discipline employees in private to minimize embarrassment.
- 7.3.5. Involve the minimum number of people necessary when gathering facts and coordinating actions.

7.3.6. Don't make information about disciplinary and adverse actions available to those outside of management circles or those that aren't affected by the action without the employee's consent.

7.3.7. Observe the employee's right to representation. See paragraph 27. for guidance concerning the employee's right to representation including, where applicable, the employee's right to union representation.

7.3.8. May not ask the employee to resign or retire to avoid discipline (see paragraph 9.).

8. Distinguishing Disciplinary From Nondisciplinary Situations. Improper identification of whether a cause of action is a disciplinary or nondisciplinary situation may lead to a failure to meet all requirements.

8.1. A cause of action due to delinquency or misconduct personally attributable to the employee is a disciplinary situation. Examples include on or off-duty misconduct, absence without approved leave, violation of leave procedures, etc.

8.2. A cause of action not due to an employee's delinquency or misconduct, but which is personal to the employee, is a nondisciplinary situation. Examples include inefficiency, physical or mental inability to perform the duties of the position, or lack of work or funds necessitating a furlough, etc.

9. Voluntary Separation and Reductions.

9.1. Determine whether a separation or reduction in grade or pay is voluntary or involuntary based on each set of circumstances.

9.1.1. Under most circumstances, voluntary actions include those that employees:

- Are free to choose.
- Clearly understand.
- Are permitted a reasonable time period in which to choose a course of action.
- Are permitted to set the effective date.

9.1.1.1. Supervisors may suggest another effective date for a voluntary action, but may not arbitrarily set an earlier or later date.

9.1.2. An employee confronted by supervisors with a potential disciplinary or adverse action may choose to voluntarily:

- Accept a reduction in grade or pay.
- Resign.
- Retire.

9.1.2.1. Supervisors may discuss these alternatives with employees but may not advise or ask employees to resign or retire.

Section C—Disciplinary and Adverse Actions and Their Requirements

10. Governing Requirements. Supervisors and managers must respect employees' rights established by law, regulation, policy, or collective bargaining agreements. Take disciplinary and adverse actions by:

- Notifying employees of the proposed action.

- Giving employees an opportunity to respond to proposed actions.
- Notifying employees of the final decision.
- Informing employees of their access to appellate or grievance procedures.

Supervisors must accomplish disciplinary and adverse actions through written documents that meet specified criteria. *EXCEPTIONS:* Supervisors need not document oral admonishments discussed in paragraph 11. or, where applicable, oral notices of proposed reprimands discussed in paragraph 12.4.4.

10.1. Standard for Taking Disciplinary and Adverse Actions: Managers and supervisors:

10.1.1. May take a disciplinary or adverse action only for such cause as will promote the efficiency of the service.

10.1.2. May not take a disciplinary or adverse action against an employee on the basis of any of the reasons prohibited by 5 U.S.C. 2302.

10.2. Burden of Proof:

10.2.1. In order to meet the standard for taking an action, managers and supervisors must:

- Clearly specify the charges or reasons upon which the action is based.
- Be able to prove the specific charges or reasons which form the basis for the action by a preponderance of the evidence.
- Be able to show the connection or “nexus” between the charges and the impact on the efficiency of the Air Force.
- Be able to show that the penalty imposed was appropriate under the circumstances (see paragraph 32.).

10.2.2. Harmful Error. If harmful error is alleged in an appeal or grievance, the burden is upon the appellant or grievant to show that -- based upon the record as a whole -- the error was harmful (i.e., the outcome would probably have been different absent the error).

10.3. Applying Requirements. Managers ensure that disciplinary and adverse actions comply with all legal and regulatory requirements.

10.3.1. Third party review may find actions that don't comply with governing requirements defective, either procedurally or on merit or both. The third party may reverse the action or reduce the severity of the action.

10.3.2. An action that is not sustained by a third party because of a harmful error in procedures may be initiated again if the Air Force corrects the deficiency. An action may not be initiated again if the third party's modification or reversal is based on the merits of the case.

11. Oral Admonishment.

11.1. Supervisors:

11.1.1. Issue oral admonishments to correct minor misconduct or delinquency or to motivate employees to improve their work habits, work methods, or behavior.

11.1.2. Note the date they issue an oral admonishment on the employee's AF Form 971, **Supervisor's Employee Brief.**

11.1.2.1. Delete the reference to the admonishment 2 years after the effective date.

11.2. The Relationship of Oral Admonishment to Other Disciplinary Actions. An oral admonishment is informal and the least severe penalty enforced in the Air Force discipline program. Oral admonishments are disciplinary actions but not adverse actions. See paragraph **37.3.** for an explanation of the use of oral admonishments in relation to **Attachment 3.**

11.3. Difference From Performance Discussions or Counseling Sessions. Performance discussions and counseling sessions are nondisciplinary. Use them to guide, encourage, or instruct employees (see AFI 36-1001).

11.4. Steps In Considering and Taking an Oral Admonishment. This paragraph sets out recommended steps for supervisors to follow when imposing an oral admonishment for an employee's misconduct or delinquency. These steps are not mandatory unless stated as such. *EXCEPTION:* Follow a collective bargaining agreement if it gives other instructions. Supervisors:

11.4.1. Observe employee representation entitlements according to paragraph **27.**

11.4.2. Gather available facts.

11.4.3. Interview employees privately. Tell them the purpose of the interview. State the problem and the facts so they can clearly understand.

11.4.4. Give employees an opportunity to answer and express their views on the matter. If employees request reasonable time for thought before responding, honor the request, if possible.

11.4.5. Consider employees' answers and any explanations offered.

11.4.6. Resolve any outstanding questions before making a decision. Advise employees that you will issue a decision as soon as possible and that you will tell them when you do.

11.4.7. Determine appropriate action:

11.4.7.1. If the discussion satisfactorily resolves the matter, tell the employees. Take no further action.

11.4.7.2. If the discussion doesn't satisfactorily resolve the matter and you decide to issue an oral admonishment, tell the employees and explain why. Tell the employees that they are being disciplined by receipt of an oral admonishment. Identify areas where employees need improvement, suggest how they may do so, and offer to help.

11.4.8. Document the admonishment on AF Form 971. Include:

- The words "oral admonishment" to distinguish the action from nondisciplinary counseling.
- A brief description of the reason for the admonishment.
- The effective date.
- A note that you advised the employee of the admonishment.

11.4.9. Ask the employee to initial AF Form 971. See the requirements for recording and deleting references to oral admonishments in paragraphs **11.1.2.** and **11.1.3.**

NOTE:

Employees' initials on AF Form 971 show their awareness of the oral admonishment, not their agreement.

11.4.10. Follow up on oral admonishments by offering help, making suggestions, and encouraging the employee to improve. Note these follow-up actions and any improvement in employees' conduct on AF Form 971.

12. Reprimand.

12.1. Purpose and Use. Supervisors and managers use reprimands to correct significant misconduct or delinquency and repeated lesser offenses. It is a severe disciplinary action that should be adequate for many disciplinary situations requiring an action more severe than an oral admonishment.

12.1.1. Supervisors make sure written reprimands are clearly identified with the subject: "Notice of Reprimand."

12.1.2. Supervisors send a copy of the "Notice of Reprimand" to the CPF for temporary filing in the employee's Standard Form 66, Official Personnel Folder (OPF), for 2 years from the date of the reprimand. The CPF destroys it when the 2 years expire.

12.1.3. Supervisors note the date they issue a reprimand on the employee's AF Form 971. Delete the note when the reprimand expires.

12.1.4. In the establishment of a progression of penalties (see paragraph 34.), supervisors may make a reprimand more "severe" by:

- Referencing previous offenses;
- Indicating the seriousness of their concern with the continued misconduct or delinquency; or
- Warning that a further offense could result in a more severe penalty. **Note: Be sure to use the phrase, "could result" rather than "will result."**

12.1.5. Supervisors may issue a reprimand as the last step in a progression of penalties if the written notice clearly warns that a further offense could lead to removal.

12.2. The Relationship of Reprimands To Other Disciplinary Actions:

12.2.1. A reprimand is the least severe formal penalty. It is a disciplinary action but not an adverse action. It carries the same weight as a suspension when it is used as a prior offense penalty to support the penalty imposed for a later offense.

12.2.2. Reprimands may constitute a more severe penalty when:

- Air Force policy precludes the use of suspension.
- A suspension might be managerially unsound even though the offense is serious enough to warrant suspension.
- The offense doesn't warrant suspension but meets the criteria in paragraph 12.1.4.

12.3. Difference From Letters Stating Standards or Requirements.

12.3.1. Don't use letters documenting standards of conduct as disciplinary actions or reprimands.

12.3.2. Don't use letters that establish special requirements, such as letters outlining leave approval procedures or warning employees of the potential consequences of certain delinquencies, as reprimands.

12.3.3. Use reprimands to discipline employees who have been advised of management's expectations but fail to meet them for reasons within their control. Supervisors may restate these requirements in letters of reprimand.

12.4. Steps In Considering and Taking a Reprimand. This paragraph sets out recommended steps for supervisors to follow when imposing a reprimand for an employee's misconduct or delinquency. The steps are not mandatory unless stated as such. **EXCEPTION:** Follow a collective bargaining agreement if it gives other instructions. Supervisors:

12.4.1. Complete the steps in this paragraph as soon and efficiently as possible but not necessarily during one session.

12.4.2. Observe employees' right to representation according to paragraph 27.

12.4.3. Gather available facts.

12.4.4. Interview employees privately. Tell them the purpose of the interview. State the problem and the facts so they can clearly understand. If applicable, tell employees the interview serves as an oral notice of proposed reprimand.

NOTE:

Unless a governing collective bargaining agreement provides otherwise, supervisors must give employees a notice of proposed reprimand. The notice may be given orally or in writing.

12.4.5. Give employees an opportunity to answer and express their views on the matter. If employees request reasonable time for thought before answering, honor the request, if possible. Follow the guidelines in paragraph 28.

12.4.6. Consider employees' answers and any explanations they offer according to paragraph 29.

12.4.7. Resolve any outstanding questions before making a decision. Advise employees that you will issue a decision as soon as possible and that you will tell them when you do.

12.4.8. Determine appropriate action:

12.4.8.1. If the discussion satisfactorily resolves the matter, tell the employees. Take no further action.

12.4.8.2. If the discussion doesn't satisfactorily resolve the matter and you decide an oral admonishment is adequate penalty under the circumstances, take the steps outlined in paragraphs 11.4.7. through 11.4.10.

12.4.8.3. If the discussion does not satisfactorily resolve the matter and you decide a reprimand might be warranted, tell employees that you have not made a decision but will tell them when you do so.

12.4.8.4. If, after discussing the case with the CPF, you decide to reprimand the employee, prepare a "Notice of Reprimand" and coordinate it with the CPF before delivering it to the employee. **Note: This notice is required.** See paragraphs 17.5. and 17.6. concerning the notice contents.

12.4.8.5. Send documentation of the action to the CPF according to paragraphs **12.1.2.** and **20.**

12.4.8.6. Note the reprimand on the AF Form 971 according to paragraph **12.1.3.**

13. Suspensions:

13.1. Purpose and Use:

13.1.1. Consider a suspension, regardless of its duration, as an adverse action. Use it as a severe disciplinary action. Ordinarily, it is the final step in the disciplinary process before removal action and is accompanied by a warning to employees that a further violation of rules could result in removal. *Note: Be sure to state the warning in terms of "could" rather than "will" result in removal.*

13.1.2. A suspension prevents an employee from performing work and denies salary for the suspension period. Therefore, supervisors may not impose a suspension for indebtedness or for performance-related factors in nondisciplinary situations.

13.1.3. Normally, you shouldn't suspend employees for more than 30 days.

13.2. Suspensions for 14 Days or Less. When proposing a suspension for 14 days or less, supervisors must provide employees:

- Advance written notice stating the specific reasons for the proposed action (see paragraph **16.**).
- A reasonable time, but not less than 24 hours, to answer charges orally and in writing and to furnish affidavits and other documentary evidence in support of their answer.
- The right to representation by an attorney or other representative (see paragraph **27.**).
- A written decision and the specific reasons for the decision at the earliest practicable date (see paragraph **17.**).

13.2.1. Normally, supervisors give employees 7 days to answer a proposed suspension for 14 days or less.

13.3. Suspensions for More Than 14 days. See paragraph **14.4.** for requirements for suspensions for more than 14 days.

14. Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less.

14.1. These actions include:

- Actions based solely on factors unrelated to performance.
- Actions based on factors both related and unrelated to performance.
- Actions based solely on factors related to performance that aren't covered by AFI 36-1001.

NOTE:

See paragraph **15.** for special procedures when a reduction in grade is based on reclassification or job-grading determinations.

14.2. Removal. A disciplinary removal is the most severe disciplinary action. Consider it rehabilitative since it could help employees improve their performance in future positions.

14.2.1. Before initiating a removal, carefully review the facts and circumstances in each case. Make sure they support the conclusion that the employee has demonstrated unwillingness or refusal to conform to the rules of conduct or has so breached the employee-employer relationship that other rehabilitation is not appropriate and removal is warranted for the offense.

14.2.2. Supervisors and managers may remove an employee:

- For misconduct on or off the job. (See paragraph **10.2.1.**)
- For actions before appointment which reflect upon the employee's suitability for federal employment.

14.2.3. Normally, supervisors take a progression of disciplinary measures before deciding to remove employees. *EXCEPTION:* If employees commit egregious misconduct or flagrantly violate rules and regulations, supervisors may remove them for a first or second offense.

14.3. Furlough for 30 Days or Less. For a furlough of any duration, managers must apply for prior approval from HQ USAF/DPC. Don't announce a proposed furlough before getting it approved.

14.3.1. Submit requests through command channels and include:

- The reasons you consider a furlough necessary.
- The efforts you made to avoid the furlough.
- The number of employees involved, their skills, and the proposed length of the furlough.

14.4. Action Requirements. Supervisors and managers give employees against whom they initiate an action under this paragraph or paragraph **15.:**

- At least 30 days advance written notice stating the specific reasons for the proposed action. *EXCEPTIONS:* See paragraph **14.5.**
- A reasonable time, but not less than 7 days, to answer your charges orally and in writing and to furnish affidavits and other documentary evidence in support of their answer.
- The right to representation by an attorney or other representative (see paragraph **27.**).
- A reasonable amount of official time to review the material relied on to support the proposed action, to prepare an answer, and to secure affidavits (see paragraph **28.1.**). *EXCEPTION:* If the employee is covered by a collective bargaining agreement, follow the provisions of that agreement.
- A written decision and the specific reasons for the decision at the earliest practicable date (see paragraph **17.**).

14.5. Exceptions. (Additional information concerning use of the following exceptions is in 5 CFR 752.404[d]).

14.5.1. Crime Provision. Supervisors need not comply with the requirement for 30 days' advance written notice when proposing a removal or suspension (including indefinite suspension) if they have reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. Supervisors may require the employee to furnish an answer, including affidavits and other documentary evidence, within a reasonable time under the circumstances, but not less than 7 days. When the circumstances require that the employee be kept away

from the worksite, and no other alternatives are available, supervisors may place the employee in a nonduty status with pay for such time as is necessary to effect the action.

14.5.2. Furlough Without Pay due To Unforeseeable Circumstances. Supervisors need not give employees the advance written notice and opportunity to answer for furloughs without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities. Despite the waiver of the advance notice requirement and the right to answer, supervisors must give employees the other protections provided by law and regulation, including the right to appeal where appropriate, or grieve the action.

Section D—Change To Lower Grade Based on Reclassification or Job-Grading Determination.

15. Change to Lower Grade. This paragraph addresses reduction in grade (demotion) of an employee whose position is downgraded because of a determination that the position warrants classification at a lower grade due to a classification error or job grading standard change when the position has been classified at the higher grade for less than 1 year. **Note: When demoting employees under the circumstances of this paragraph, managers also apply the provisions of paragraphs 14.4., 16., and 17.**

15.1. Contents of Notice of Proposed Adverse Action. In addition to the requirements of paragraph 16., managers make sure the notice of proposed adverse action:

- Contains a statement why the position is being downgraded (for example, because of an erroneous classification or because of the application of a new or revised standard).
- Encloses a copy of the official position description and either the OPM classification certificate or the classification decision of the Air Force comparing the grade controlling duties and responsibilities of the position with the applicable published classification or job-grading standards. **EXCEPTION:** If the classification guides and standards are too long to copy, include a statement outlining the arrangements you made for the employee to review the items.

15.1.1. Proposing officials must not suggest in the notice of proposed adverse action that the notice constitutes a final decision to demote the employee. The notice may state, however, that the Air Force or OPM has decided to downgrade the position.

15.2. Consideration of Employee's Answer. The employee's answer is considered by an Air Force official according to paragraph 5.2.2.

15.2.1. When the classification decision results from an OPM certificate, recommending or deciding officials need not consider or respond to employees' disagreement with that decision. **EXCEPTION:** If the Air Force classification decision was based on application of an OPM or Air Force precedent decision and employees' answers contest that decision, managers must consider and respond to employees' answers in notices of decision.

15.3. Effective Date of Downgrading. The position may not be downgraded before the deciding official makes a final decision on the proposed demotion or the advance notice expires.

Section E—Notices of Proposed Adverse Action, Notices of Final Decision, and Related Requirements

16. Notice of Proposed Adverse Action. This notice gives the employees a fair opportunity to defend themselves against the proposed action. Supervisors must make it clear in all notices that the proposed action doesn't constitute a final decision. See paragraph **16.2.5.** for a sample of how to word this statement.

16.1. In the notice of proposed action, supervisors must include:

16.1.1. The proposed action. For example, write "It is proposed to suspend you for 5 calendar days" (see paragraph **22.**).

16.1.2. The specific reasons for the proposed action (see paragraph **15.2.** and paragraph **23.**).

16.1.3. When proposing a furlough, the basis for selecting a particular employee for furlough when some but not all employees in a given competitive level are being furloughed.

16.1.4. A statement of the employee's right to review the material relied on to support the reasons for action given in the notice.

16.1.5. Either a statement of what arrangements the employee must make to review the supporting material or a copy of the supporting material enclosed with the notice and referenced in it (see paragraph **25.**).

16.1.6. Signature of an official with the authority to propose the action (see paragraph **5.**).

16.1.7. The date. (Date the notice before delivery to employees.)

16.2. In the notice of proposed action, supervisors may include recommended, nonmandatory information such as:

16.2.1. The duration of the notice period (see paragraph **21.**).

16.2.2. A statement telling employees of their right to answer orally and in writing and to furnish affidavits and other documentary evidence in support of their answer (see paragraph **28.**).

16.2.3. The amount of time allowed for the employee to answer and a statement that you will consider extending the time if the employee requests an extension and supports that request. (See paragraph **21.** and paragraph **28.1.2.** for the amount of time you must allow an employee to answer).

16.2.4. The person or office to receive any written answer and the person to whom the employee must reply orally. Designate an individual with authority either to make or recommend a final decision on the proposed adverse action (see paragraph **26.**).

16.2.5. Wording that states:

- That management has proposed the action but hasn't yet made its decision.
- That a designated official will consider employees' answers.
- That whether the employees' answer, management will issue a final written decision (see paragraph **17.**).

16.2.6. The amount of official time allowed for employees in an active duty status to:

- Review the material relied on to support the proposed action.

- Secure affidavits and other documentary material.
- Prepare an answer or answers to the notice.
- The person with whom employees may make arrangements for using official time.

16.2.7. A statement that management will consider extending the amount of official time for the purposes specified in paragraph **16.2.6.** if employees request an extension and supports that request (see paragraph **28.1.3.**).

16.2.8. A statement of employees' right to representation (see paragraph **27.**).

16.2.9. The name, location, and phone number of the person in the CPF designated to help the employee.

16.2.10. The employees' duty status during the notice period.

17. Notice of Decision. Supervisors must give employees a written notice of decision if they issued a written notice of proposed action and they are still on the rolls. This applies regardless of whether employees answer the notice of proposed action or supervisors decide to cancel the proposed action or to take a lesser action. *Note: Supervisors must give employees a written notice of decision on a proposed reprimand regardless of whether the proposal was accomplished orally or in writing.*

17.1. The person designated to make the decision on a proposed action (deciding official) may lessen the proposed action. For example, the official may decide to change a proposed removal to a suspension or demotion.

17.2. If supervisors decide to propose a more severe action than originally proposed, they must cancel the original notice and give the employee a new proposal.

17.3. Supervisors, or their designees, must deliver notices of decision for adverse actions to employees at or before the time the actions goes into effect. If this isn't possible, make a diligent effort to deliver the notice and document this effort according to paragraph **19.**

17.4. When preparing a notice of reprimand, supervisors apply the requirements and recommendations in paragraph **17.5.** and paragraph **17.6.**

17.5. In notices of decision, supervisors must include:

17.5.1. The decision in specific terms. For example, write: "It has been decided to (remove you), (suspend you for ____ calendar days, (reprimand you), (etc.)."

17.5.2. The specific reasons for the decision. Include:

- Only the reasons specified in the notice of proposed action.
- A reference to the proposed notice and which reasons you've sustained.
- If proposed orally, the reasons for a reprimand in enough detail to document the basis for the action.
- The employee's past disciplinary record but only if it was relied on in proposing the action and included in the notice.

17.5.3. The effective date of an adverse action. For suspensions include the first and last day of the suspension and the date and time the employee is to return to duty.

17.5.4. The expiration date for a reprimand. (For example, "This reprimand will be filed in your official personnel folder and noted on AF Form 971 for 2 years from the date of this decision.") Tell employees when the reprimand will be destroyed and the reference to it on AF Form 971 deleted.

17.5.5. Information about an employee's right to a grievance procedure, if applicable. (see paragraph 31.).

17.5.6. Information about an employee's right to appeal to the Merit Systems Protection Board (MSPB), if applicable, including the address of the appropriate MSPB office for filing the appeal, and the time limits for appealing to MSPB (see paragraph 31.).

17.5.7. A copy of Optional Form 283, **U. S. Merit Systems Protection Board Appeal Form**, if applicable, and a copy, or access to a copy of the MSPB regulations. (Obtain Optional Form 283 through normal distribution channels. MSPB allows local reproduction of its regulations.)

17.5.8. The signature of an official with the authority to decide the action (see paragraph 5.).

17.5.9. The decision date. Date the decision before delivering it to the employee.

17.6. In the notice of decision, supervisors may include recommended, nonmandatory information such as:

17.6.1. Whether the employee answered and whether you considered all of these answers (see paragraph 29.).

17.6.2. The name, location, and phone number of the person in the CPF designated to help the employee.

18. Timeliness of Action. Supervisors initiate inquiries while information is fresh and readily available and then normally initiate appropriate action as soon as they establish the facts.

18.1. When Federal criminal charges have been or may be brought against employees, managers must consider any objection made by the United States Attorney to proceeding with an administrative action.

18.2. If supervisors anticipate a substantial delay in effecting an action, they inform employees of the considered action and of their decision, whenever they make one.

19. Delivery of Notices. Supervisors make sure employees receive notices on a timely basis or that their action to attempt delivery constitutes an intelligent and diligent effort under the circumstances. Supervisors may deliver notices either personally or by mail.

19.1. Normally, supervisors, or their designees, hand notices to employees and ask them to sign one copy, acknowledging receipt. Should an employee refuse to sign the acknowledgement copy, the person making the delivery can sign and date a statement of delivery to include the place, date, and time of delivery, and note the employee's refusal to sign. *Note: The employee's written acknowledgement doesn't indicate agreement with the notice.*

19.2. If personal delivery is impossible for some reason, supervisors must choose a method of mail delivery. This delivery method is important; seek advice about preferable means from the CPF.

19.3. Supervisors must maintain accurate records of every attempt at delivery as part of the file required by paragraph 20.

Document evidence of an employee's effort to avoid delivery.

20. Recording Actions. Supervisors send a record of actions taken under this instruction to the CPF for retention. Include a copy of:

- The notice of proposed action, if applicable.
- Any written answers the employee may have made (including summaries of oral answers).
- The notice of decision including the specific reasons for it.
- Any order effecting the action.
- A statement of your reasoning as to the appropriateness of the penalty imposed in disciplinary actions (including reprimands).
- Any supporting material. (See paragraph 25. for more information on supporting material).

20.1. Send a copy of the file to the MSPB or Air Force Civilian Appellate Review Office, Appellate Review Division (AFCARO/ARD) if either asks for it and to the affected employee if requested by the employee.

20.2. Retain records of reprimands for 2 years from the date of the notice of decision to reprimand. Screen and destroy expired reprimands from the Official Personnel Folders. Delete references to expired reprimands from the AF Form 971 (see paragraph 12.1.3.).

20.3. Delete references to oral admonishments from the AF Form 971 2 years from the date of the admonishments (see paragraph 11.1.2.1.).

21. Advance Notice Period:

21.1. Oral admonishments and reprimands require no minimum advance notice period.

21.2. For a suspension for 14 days or less, supervisors must give at least 24 hours advance notice. Normally, supervisors give employees 7 days' notice.

21.3. The minimum notice period for adverse actions under paragraph 14. and paragraph 15. is 30 days. *EXCEPTION:* See paragraph 14.5. for information on the use of a shortened notice period.

21.4. Supervisors may take additional time if needed. You need not set a tentative date for action when issuing a notice of proposed action. In the notice of proposed action, state that any adverse action will go into effect "not earlier than _____ days (the number of days of advance notice) from the date you receive this notice."

22. Identification of the Proposed Action. In the notice of proposed action, supervisors state the most severe action proposed. State the exact number of calendar days for proposed suspensions. *EXCEPTION:* Provide no end date for indefinite suspensions. (See **Attachment 1** for definition of indefinite suspension).

22.1. Supervisors may later reduce a proposed action, but they can't make the proposed action more severe without canceling the original notice and giving the employee a new proposal. Don't propose the most severe action with the expectation that it may later be reduced.

22.2. When an adverse action results in pay reduction, state the employee's new salary in the notice. For a change to a lower grade, state the employee's exact pay plan, series, position title, and grade. If an employee doesn't qualify for grade retention, state whether the employee is entitled to pay retention.

23. Specific Reasons (Includes Causes of Action). In the notice of proposed action, state all the specific reasons relied on to support the proposed action. (For reprimands, include this information in the notice of reprimand unless a written notice of proposed reprimand was issued.) Supervisors need not include every reason that *might* have been used to support their proposed action.

23.1. Normally, cover the current cause of action in the introductory paragraph of the notice of proposed action. Include supporting reasons (such as prior offenses) in separate paragraphs.

23.2. The supervisor who initiates the action must identify and state the cause of action. Causes for adverse action may be reasons personal to the employee such as on or off-the-job misconduct, delinquency, or physical or mental inability to perform the duties of the position. Causes also may be impersonal reasons such as the application of new or revised classification standards or the need to correct a merit promotion error.

24. Adding Reasons. If supervisors amend a notice to add further reasons for action, they must give employees sufficient time to answer the added reasons and take no action until the required notice period expires. *Note: The advance notice period starts again from the date the added reasons are received by the employee.*

25. Material Relied on To Support the Action. Supervisors assemble the material they relied on to support the reasons for the proposed action and make the file available to the employee. This material may include:

- Statements of witnesses.
- Documents.
- Investigative reports or extracts from the reports.
- Relevant material concerning any previous record or action that serves as the basis for the current action.

25.1. Supervisors may enclose a copy of the supporting material with the notice of proposed action, stating in the notice that they've done so.

25.2. Supervisors must allow employees, the employee's representative, or the employee's designated physician under 5 CFR 297.205 to review all supporting material. Don't use material to support your reasons for the action that can't be shown to these individuals.

26. The Official to Whom Employees Answer. Normally, the person who signs the notice of final decision receives employees' oral or written answers. Managers may designate another person to receive the answer as long as that person has the authority to recommend a final decision and serves in a position superior to the employee (not necessarily in a supervisory position or in a higher grade), or a designated CPF official (see paragraph 5.2.2.).

27. Employee Representation.

27.1. Supervisors and managers must give a union representative of an appropriate bargaining unit the opportunity to be represented at any examination of an employee in the unit by a representative of the agency in connection with an investigation if:

- The employee reasonably believes the examination may result in disciplinary action against the employee and;
- The employee requests representation.

27.2. Employees who receive a notice of proposed disciplinary or adverse action may get help preparing their answer. Employees may be represented by an attorney or other representative when making an oral answer to a proposed adverse action.

27.3. Representatives may accompany employees answering charges orally or may answer for employees. Representatives' time qualifies as official duty time or as whatever the collective bargaining agreement states if representatives clear time in advance and serve in an active duty status.

27.3.1. Employees in an exclusive bargaining unit have the right to representation according to the terms of any governing collective bargaining agreement.

27.3.2. Employees who aren't in an exclusive bargaining unit have the right to be represented by the person of their choice, subject to paragraph 27.4. and paragraph 27.6.

27.4. Disallowing Representatives. Managers may disallow the employee's choice of representative if any of these criteria apply:

- Activities of the individual as a representative could cause a conflict of interest or position.
- Release of the individual from his or her duties could give rise to unreasonable costs to the Government.
- The individual's priority work assignments preclude his or her release to serve.

27.4.1. Fully, clearly, and specifically state the basis for the disallowance in writing. Include citations of regulatory provisions and other authorities.

27.4.2. Deliver the disallowance to the employee within 5 workdays after receiving notification of a designated representative or as soon as possible thereafter if the employee is unavailable.

27.4.3. In an adjudication, use this notice of disallowance as the basic explanation of your position (see paragraph 27.6.2.1.).

27.5. Bargaining Unit Employees' Right To Challenge Disallowance of Representative.

Employees in an exclusive bargaining unit may challenge the decision to disallow their choice of a representative through the collective bargaining agreement or 5 U.S.C. 7118, as appropriate.

27.6. Nonbargaining Unit Employees' Right to Challenge Disallowance of a Representative.

27.6.1. Employees who aren't in an exclusive bargaining unit have the right to challenge the decision to disallow their choice of a representative by addressing the challenge, through the CPF, to AFCARO/ARD.

27.6.1.1. In the challenge, employees must explain why the representative should serve and why the manager's reasoning for disallowance is wrong.

27.6.1.2. Employees must make sure the challenge is received by the CPF within 5 days of the disallowance.

27.6.2. Within 2 workdays after receipt of the employee's challenge, the CPF sends the file to AFCARO/ARD for decision.

27.6.2.1. The CPF makes sure the file contains a clean, readable, and unmarked copy of the following documents, as applicable:

- The designation of representation, the disallowance, and the employee's challenge.
- The employee's and the designated representative's official position descriptions.
- Official organization charts showing the relationship among relevant positions.
- Relevant official functional statements.
- Relevant local and MAJCOM (or comparable organization) regulations.
- Cases, policy statements, and other materials cited as authorities.

27.6.2.2. When it is necessary to submit a marked copy, you must certify to the unavailability of an unmarked copy, and identify all extraneous markings.

27.6.3. The CPF sends the employee an information copy of the transmittal letter to AFCARO/ARD.

27.6.4. The Director of AFCARO, or designee, expedites a final decision based on the file received from the CPF.

27.6.5. AFCARO/ARD sends the decision to the employee with an information copy to the CPF. These decisions aren't subject to further administrative review.

27.6.6. Supervisors and managers wait for AFCARO's decision before taking any further action on the disciplinary or adverse action.

28. Employees' Answers. Employees who receive a written notice of proposed adverse action may answer that notice to the designated official as many times as they wish. (See paragraph **30.** for review of answers as a result of premature appeals or grievances.)

28.1. Time Allowed:

28.1.1. Supervisors must give employees a reasonable response period for:

- Obtaining advice and assistance.
- Reviewing the material relied on to support the reasons cited in the notice of proposed action.
- Obtaining affidavits and statements.
- Considering appropriate courses of action.
- Preparing and submitting an answer or answers.

28.1.2. (See paragraph **21.** for information on the minimum notice period that must be given to employees).

28.1.3. Within the response period, supervisors must allow employees who request it a reasonable amount of official time for the purposes specified in paragraph **28.1.1.** *EXCEPTION:* Follow the applicable provisions of a collective bargaining agreement if the employee is covered by that agreement.

28.1.4. Supervisors must determine reasonable total response time and reasonable official time for each action initiated. Base this determination on:

- The facts and circumstances of the individual case.
- The complexity of the issues involved the case.
- The amount and type of material in the file to be reviewed.
- The need for help and the employee's difficulty in getting it.

28.1.5. Supervisors must honor reasonable requests from employees for additional time, if possible. *Note: The Air Force authorizes no standard, predetermined definition of "reasonable."*

28.2. Character of Answer. Employees may answer the notice of proposed action orally and in writing. When an employee answers the notice of proposed action orally, supervisors summarize the primary points of the interview. If possible, obtain the signature of the employee to show agreement with the record.

28.3. Content of Answer. Supervisors must give employees the opportunity to answer in whatever way they think may influence the final decision in their favor or reduce the penalty.

28.3.1. In their answers, employees may:

- Deny or dispute the charges.
- Address matters that aren't related solely to the charges in the notice of proposed action.
- Plead extenuating circumstances.
- Submit affidavits and statements in support of their answers.

29. Consideration of Answer. Designated officials give thorough and objective consideration to answers received before the notice of final decision is issued.

29.1. Deciding officials may not issue the notice of final decision before time allowed for answers expires, including extensions.

29.1.1. If an employee's answer in any way refutes the reasons contained in the advance notice, the deciding official must review the evidence objectively and determine whether a "preponderance of evidence" supports the proposed action. That official decides whether the action stands, needs modification, or may be withdrawn.

29.2. The person designated to receive employees' answers writes a letter explaining any management delays in reaching a final decision caused by the need to collect additional evidence or other unusual circumstances. Include the approximate date the final decision will be made.

29.3. Under no circumstances may the deciding official base the decision to take an action solely on the conclusion that the employee "failed to refute" the charges.

30. Premature Appeal or Grievance. Employees may not grieve or appeal a notice of proposed action or a notification that initiation of action is being contemplated. Designated officials to receive employees' answers to notices of proposed actions consider an employee's attempt to obtain appellate or grievance reconsideration of a proposed action to be an answer to the notice of proposed action.

30.1. Employees may contest final decisions that have gone into effect by filing a timely appeal or grievance.

31. Appeal and Grievance Rights. Disciplinary actions and adverse actions are subject to review under the procedures of the MSPB, the Department of Defense (DoD), the Air Force, or negotiated grievance procedures between the Air Force and exclusive collective bargaining units, as applicable. Written notices of final decision contain specific information about those rights; and, if alternatives exist, the employee is required to select the procedure to be used. Some general rules are included below; but because not all employees have the same appellate or grievance rights, an employee who has received a notice of final decision should carefully review the appellate or grievance information in it and may ask CPF assistance on specific questions.

31.1. Oral Admonishments, Reprimands, and Suspension for 14 Days or Less. Bargaining unit employees with access to a negotiated grievance procedure may grieve those actions through that procedure only.

31.1.1. Bargaining unit employees without access to a negotiated grievance procedure and non-bargaining unit employees may grieve such actions through the DoD grievance procedure in DoD-CPM 1400.25-M, Chapter 7, Subchapter 13, *Administrative Grievance System*.

31.2. Removals, Suspensions for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less.

31.2.1. Employees who may appeal an action covered by paragraph **31.2.** to the MSPB or grieve the action through the negotiated grievance procedure of a collective bargaining agreement, where applicable, but not both, include:

31.2.1.1. An employee in the competitive service who has completed a probationary or trial period.

31.2.1.2. An employee in the competitive service serving in an appointment that requires no probationary or trial period, and who has completed 1 year of current continuous service in the same or similar positions under other than a temporary appointment limited to 1 year or less.

31.2.1.3. An employee in the excepted service who is a preference eligible and who has completed 1 year of current continuous service in the same or similar position.

31.2.1.4. Unless excluded by 5 U.S.C. 7511(b)(8), an employee in the excepted service who is a nonpreference eligible and who has completed 2 years of current continuous service in the same or similar positions under other than a temporary appointment limited to 2 years or less.

31.2.1.5. An employee with competitive status who occupies a position in Schedule B of 5 CFR, Part 213.

31.2.1.6. An employee who was in the competitive service at the time his or her position was listed under Schedule A, B, or C of the excepted service and still occupies that position.

EXCEPTION: See paragraph **2.1.** for the employees excluded from this instruction.

31.2.2. An employee not included in paragraphs **31.2.1.1.** through 31.2.1.6, but who has received an action covered by **31.2.**, may grieve such action through the DoD grievance procedure in DoD-CPM 1400.25-M, Chapter 7, Subchapter 13, *Administrative Grievance System*, unless that procedure excludes either the employee or the action being grieved from its coverage.

Section F—Selection of Appropriate Disciplinary Actions.

32. Penalty Selection. Supervisors determine which penalty to impose in a particular situation by applying responsible judgement to Air Force disciplinary policy. Take the disciplinary action on the basis of conclusions that sufficient evidence is available to support the reasons for action and that the action is warranted and reasonable in terms of the circumstances which prompted it.

32.1. Governing Criteria. Supervisors observe the principle of "like penalties for like offenses in like circumstances." Apply penalties as consistently as possible considering the particular circumstances of the cause for disciplinary action.

32.1.1. Don't apply penalties with "...mathematical rigidity or perfect consistency regardless of variations in circumstances or changes in prevailing regulations, standards, or mores," (Douglas v. Veterans Administration, et al., MSPB Decision No. AT075299006, 10 April 1981).

32.1.2. Supervisors consider all relevant penalty selection factors. Select penalties that aren't disproportionate to the offense and contribute to the solution of the problem and to the attainment of an effective management environment.

32.2. Factors in Penalty Selection. Some of the factors that may be relevant in selecting the appropriate penalty are listed at paragraphs **32.2.1.** through 32.2.12. Not all of the factors will be relevant in every case and others may be relevant in particular cases. Selection of an appropriate penalty (including a reprimand) involves a responsible balancing of the relevant factors based on the individual case. Some of the relevant factors may weigh in the employee's favor while others may not or may even cause management to view the situation as more serious and deserving of a more severe penalty than originally thought. When selecting a penalty, supervisors and managers consider the following factors:

32.2.1. The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.

32.2.2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.

32.2.3. The employee's past disciplinary record.

32.2.4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.

32.2.5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties.

32.2.6. The consistency of the penalty with those imposed upon other employees for the same or similar offenses in like or similar circumstances.

32.2.7. The consistency of the penalty with the Guide to Disciplinary Actions (**Attachment 3**).

32.2.8. The notoriety of the offense or its impact upon the reputation of the Air Force.

32.2.9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question.

32.2.10. The potential for the employee's rehabilitation.

32.2.11. The mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter.

32.2.12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

32.3. Penalty Support. If an employee grieves or appeals an action, supervisors and managers must prepare to support the appropriateness of the penalty (see paragraph 10.2.1.).

32.3.1. Supervisors and managers must include a statement of their reasoning as to the appropriateness of the penalty imposed in the record described in paragraph 20.

33. The Guide To Disciplinary Actions (Attachment 3). The guide helps supervisors and managers select appropriate penalties by providing a framework for interrelating all the relevant facts to possible courses of action and to available penalties. Use it to evaluate causes of action (offenses), whether or not specifically described, so that a sound, supportable penalty may be selected. Avoid mechanical use of the guide. The guide is an expression of typical causes and typical penalties only; therefore, causes of action and penalties in the guide may not meet the demands of all situations. Use it as guidance along with supervisory judgment in considering the particular circumstances of the matter and the appropriateness of the particular action contemplated.

33.1. Cause of Action. The "Cause of Action" column in the guide explains many of the common offenses, but it does not include every possible one. In using that column to apply general Air Force policy, supervisors compare each cause of action in the particular case at hand to all of those described and use those that relate to the situation. If there is a corresponding cause of action shown in the guide, use it to guide further consideration. If the cause of action in the particular case at hand is not shown, supervisors fit that offense into the general framework by relating its nature and seriousness to the fundamental characters of those listed. Supervisors need not use the precise language in the guide to describe an offense.

33.2. Typical Penalty.

33.2.1. Unless specifically stated otherwise, the "Typical Penalty" column in the guide establishes a range of penalties for a particular or comparable offense, not a required one. The guide prescribes no minimum penalty for any cause of action, except where required by law or executive order. Supervisors may not establish a minimum penalty by policy statement or by implementing instruction. Unless restricted by law or executive order, supervisors and managers may impose no penalty at all or may choose from penalties ranging from oral admonishment to removal.

33.2.2. When considering which offense column of the guide to use, supervisors and managers need not establish that an employee's prior offenses were of the same character as the current offense. The severity of the penalty depends on the relationship of the current offense to relevant factors including those discussed in paragraph 32.2. See **Attachment 3** for further guidance on how to determine the penalty.

34. Progression of Penalties. Supervisors and managers apply increasingly more severe penalties as the employee continues to breach the employee-employer relationship. Such a progression establishes a constructive disciplinary process (see paragraph 7.).

34.1. Supervisors usually begin a progression of penalties with oral admonishments and proceed through reprimand to suspension. If employees continue not to meet their responsibilities, the supervisor may end the progression of penalties in removal.

34.2. For example: if the supervisor imposed a 3-day suspension for a first offense, a second offense would call for at least a 3-day suspension, even though the applicable items in the guide might show a range of reprimand to removal. Similarly, if a supervisor imposed a 5-day suspension for a second offense, consideration of the penalty to be imposed for a third offense would begin with a 5-day suspension.

34.3. Supervisors impose a removal for misconduct or delinquency only after a progression of penalties unless discharge for a first or second offense is clearly warranted.

34.4. Supervisors need not include suspensions in a progression if the preceding reprimands clearly show that removal could result from repetitive improper behavior (see paragraph **12.1.4.** and paragraph **12.1.5.**).

35. Combination of Offenses. A particular situation may involve only one offense, may appear to involve more than one offense when there is actually only one, may involve more than one significant offense, or may involve more than one offense only one of which is significant. Avoid multiplying a single offense into several by including petty instances in your notice of proposed action when the significant offense provides ample basis for taking necessary action.

35.1. When different, significant offenses occur in combination, supervisors may include each offense as a cause of action. In this case, supervisors may impose a more severe penalty than would be appropriate for a single offense; but the penalty normally will not exceed that typically imposed for the most serious offense as determined by applying the appropriate offense column of the guide for the number of offenses in combination, including any prior offenses.

36. Series of Offenses. A series of offenses occurs when more than one offense is committed by an employee at different times and appropriate action could not be completed on each of these offenses individually before another was committed, even though management has proceeded at a reasonable pace. Supervisors may assess a more serious penalty for a series of offenses than would be appropriate for a single offense. However, the penalty imposed normally will not exceed the most severe shown in the appropriate offense column of the guide (considering the number of offenses in the series and any prior offenses) for the most serious cause of action in the series.

37. Prior Offenses. See **Attachment 1.** Supervisors may use an employee's prior offenses in determining the severity of the penalty for a current offense even though the prior offenses may have involved different infractions. When used in this manner, supervisors show the prior offenses and the resulting penalties imposed in the notice of proposed action (if any) and in the notice of final decision.

37.1. Supervisors may consider a suspension as a prior offense only if its effective date fell within the 3 years preceding the date of the current notice of proposed action.

37.2. Supervisors may consider an oral admonishment or a reprimand as a prior offense only if its effective date fell within the 2 years preceding the date of the current notice of proposed action.

37.3. Supervisors may not consider a breach of the employee-employer relationship for which an oral admonishment was imposed as an "offense" for the purpose of applying **Attachment 3.**

37.3.1. Supervisors may use an oral admonishment to support their decision that a reprimand would be an appropriate penalty. Don't use an oral admonishment to support selection of an adverse action penalty.

37.3.2. Supervisors may use an oral admonishment in any disciplinary action to document that an employee has been apprised of a rule, regulation, other directive, or of his or her past misconduct or delinquency.

BILLY J. BOLES, Lt General, USAF
DCS/Personnel

Attachment 1

GLOSSARY OF TERMS

Adverse Action—A removal, suspension, furlough for 30 days or less, or reduction in grade or pay. These actions don't include those resulting from reduction in force. Adverse actions may or may not be for disciplinary reasons.

Bargaining Unit Employee—An employee included in an appropriate bargaining unit for which a labor organization has been granted exclusive recognition.

Cause of Action—A recognizable offense against the employee-employer relationship such as a violation of rule, regulation or procedure; employment-related off-duty misconduct; failure to fulfill an employment-related agreement; or a mandatory requirement to take an action personal to an employee. It is disciplinary if it results from delinquency or misconduct by the employee. (A disciplinary cause of action is also called an offense.) It is nondisciplinary, for example, if it results from the employee's disability, the employee's declination of functional transfer, or a management determination such as reclassification of the employee's position or termination of an extended temporary promotion.

Charge—Sometimes used to refer to the reason stated in notices of proposed action and of final decision when the reason is disciplinary.

Counseling—A nondisciplinary method of providing information, instruction, guidance, advice, assistance, or encouragement. Don't confuse counseling with oral admonishment, which is disciplinary.

Current Continuous Employment—A period of employment or service immediately preceding an adverse action in the same or similar positions without a break in Federal civilian employment of a workday.

Days—Days refers to consecutive calendar days, including holidays, weekends, and other nonduty days.

Disciplinary Action—An action management takes to correct an employee's delinquency or misconduct. Included are oral admonishments, reprimands, suspensions, removals and, in some cases, reductions in grade or pay. Except for oral admonishments and reprimands, these disciplinary actions are also adverse actions.

Furlough—A nondisciplinary action placing an employee in a temporary nonduty and nonpay status because of lack of work or funds or for other nondisciplinary reasons. A furlough is an adverse action if it is for a period of 30 calendar days or less. A furlough for more than 30 calendar days is a reduction-in-force action covered by 5 CFR Part 351.

Grade—A level of classification under a position classification system.

Harmful Error—An error by management in the application of its procedures that is likely to have caused management to reach a conclusion different from the one it would have reached in the absence or cure of the error.

Indefinite Suspension—The placing of an employee in a temporary status without duties and pay pending investigation, inquiry, or further agency action. The indefinite suspension continues for an indeterminate period of time and ends with the occurrence of the pending conditions set forth in the notice of action which may include the completion of any subsequent administrative action.

Nexus—A reasonable connection or factual relationship between the reasons for the action taken and the efficiency of the service.

Nondisciplinary Adverse Action—An adverse action that is taken for reasons other than to correct an employee’s delinquency or misconduct.

Offense—A cause of action due to an employee’s delinquency or misconduct.

Oral Admonishment—A disciplinary discussion between a management official who has authority to take disciplinary action and an employee subject to that authority in which the employee is informed that he or she has been disciplined by receipt of an oral admonishment. It is a disciplinary action which is not an adverse action.

Pay—The rate of basic pay fixed by law or administrative action for the position held by an employee.

Preponderance of the Evidence—The degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.

Prior Offense—A prior cause of action for which a disciplinary penalty has been imposed.

Reason—Includes the current cause of action and facts, circumstances, and considerations relied on to support the action (for example, prior offenses).

Reprimand—A formal disciplinary letter issued to an employee by a management official who has authority to discipline the employee. It is a disciplinary action which is not an adverse action.

Similar Positions—Positions in which the duties performed are similar in nature and character and require substantially the same or similar qualifications, so that the incumbent could be interchanged between the positions without significant training or undue interruption to the work.

Suspension—An action placing an employee, for disciplinary reasons, in a temporary status without duties and pay. A suspension is a disciplinary action and an adverse action.

Attachment 2

PROCEDURAL PROTECTIONS FOR DISCIPLINARY ACTIONS AND ADVERSE ACTIONS

Employment Status ¹	Adverse Action Except Suspension of 14 Days or Less		Suspension of 14 Days or Less		Reprimand and Oral Admonishment
	OPM	USAF	OPM	USAF	USAF
Reemployed Annuitant	No	No	No	Yes ²	Yes
Overseas Limited ³	Yes	Yes	Yes	Yes	Yes
Career Conditional ³	Yes	Yes	Yes	Yes	Yes
Career ³	Yes	Yes	Yes	Yes	Yes
EXCEPTED SERVICE A. Preference eligible who has completed 1 year of current continuous service in the same or similar positions. ^{3,4,6}	Yes	Yes	No	Yes	Yes
B. Unless excluded by 5 U.S.C. 7511(b)(8), a non-preference eligible who has completed 2 years of current continuous service in the same or similar positions under other than a temporary appointment limited to 2 years or less. ^{3,4,5}	Yes	Yes	No	Yes	Yes
C. Nonpreference eligible of an intelligence activity covered under section 1590 of Title 10 who has completed 1 year of current continuous service in the same or similar positions under other than a temporary appointment. ^{3,4}	No	Yes	No	Yes	Yes

D. Employee with competitive status who occupies a position in Schedule B of 5 C.F.R., Part 213 and who is currently serving under a nontemporary appointment.	Yes	Yes	Yes	Yes	Yes
E. Employee who was in the competitive service at the time his or her position was first listed under Schedule A, B, or C of the excepted service and still occupies that position.	Yes	Yes	Yes	Yes	Yes
TAPER ³	Yes	Yes	Yes	Yes	Yes
Term ³	Yes ⁴	Yes ⁴	Yes	Yes	Yes
Temporary Limited	No	No	No	Yes ²	Yes
Indefinite ³	Yes	Yes	Yes	Yes	Yes
Status Quo ³	Yes	Yes	Yes	Yes	Yes
Appointment With Competition ³	Yes	Yes	Yes	Yes	Yes
1. This attachment does not apply to the Senior Executive Service. It does apply to Senior Level (SL) employees and to Scientific and Professional (ST) employees.					
2. In rare circumstances a suspension not to exceed 5 days is authorized.					
3. During probationary period, trial period, or first year of current continuous service in the same or similar positions.	No	No	No	Yes ²	Yes
4. At expiration of term for which appointed.	No	No			

5. An excepted service non-preference eligible with less than 2 years of current continuous service in the same or similar positions; nonpreference eligible serving a probationary or trial period pending conversion to the competitive service, or nonpreference eligible currently serving in a temporary appointment limited to 2 years or less.	No	No	No	Yes ²	Yes
6. Includes a preference eligible in a temporary appointment who has completed 1 year of current continuous service in the same or similar positions.					

Attachment 3

GUIDE TO DISCIPLINARY ACTIONS

NOTE: See Section F of this regulation for information concerning use of this guide and selection of appropriate penalties in disciplinary actions:

A3.1. Cause of Action Column:

A3.1.1. IT IS NOT NECESSARY TO STATE A CAUSE OF ACTION EXACTLY AS SHOWN IN THIS COLUMN. What is important is to state exactly what the employee did wrong, preferably without using legal terms suggesting crime. If such legal terms were used, it might be necessary to prove all the elements necessary to establish that the crime has been committed, including felonious intent.

A3.1.2. Cause is best identified by a specific charge or label for the offense IF that charge or label is relevant. **BE CAREFUL TO SELECT A LABEL WHICH FITS THE FACTS AND NOT TO DISTORT THE FACTS TO FIT A SPECIFIED OFFENSE IN THE GUIDE.**

A3.2. Typical Penalty Column. This column does not dictate the penalty to be imposed for a particular (or comparable) offense; rather, it establishes the range of penalties within which the penalty imposed usually falls. Unless otherwise restricted, management may impose no penalty at all or has available a choice of severity of action ranging from oral admonishment to removal.

NOTE:

See paragraph 3. of this instruction for information concerning employees in probationary or trial period, or in first year of current continuous service in the same or similar positions.

A3.2.1. Oral Admonishment. An oral admonishment is a disciplinary action that is often adequate to effect the required correction or improvement, particularly when the employee has no previous history of violations. See paragraph 37.3. for the use of the oral admonishment in relation to this attachment.

A3.2.2. Reprimand. A reprimand is a severe disciplinary action that should be adequate for many disciplinary situations which require an action more severe than an oral admonishment. It may be made more "severe" according to paragraph 12.1.4.

A3.2.3. Suspension. A suspension is a severe disciplinary action. Ordinarily, it is the final step in the disciplinary process before removal and is accompanied by a warning to the employee that a further violation of rules **COULD** result in removal (see paragraph 13.1.1.)

A3.2.3.1. A suspension may **NOT** be imposed for indebtedness nor performance-related factors when the situation is nondisciplinary.

A3.2.3.2. Suspensions seldom should exceed 30 days unless an indefinite suspension is used.

A3.2.4. Removal. Removal is the most severe disciplinary action. Before it is initiated, the facts and circumstances in the case must be carefully reviewed to ensure they support the conclusion that the employee has demonstrated unwillingness or refusal to conform to the rules of conduct or has so breached the employee-employer relationship that other rehabilitation is not appropriate and removal is warranted for the offense.

Cause of Action (Offense) a. See first page of this attachment b. Review paragraphs 7., 8., and Section F before proceeding.	Typical Penalty a. See first page of this attachment b. See paragraphs 11., 12., 13., 14., and Attachment 2.
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	First Offense	Second Offense	Third Offense
<p>1. Failure to honor valid debts or legal obligations</p> <p>NOTE: There is no offense unless (a) the validity of the debt is established; (b) there has been a failure to either arrange for or comply with a repayment schedule; and (c) there is a <i>current</i> complaint from the <i>creditor</i>. Suspension as a penalty is not authorized. Maximum penalty for third offense is reprimand and for fourth offense, reprimand with the added warning that a "continuation of offenses could result in removal."</p>	Reprimand	Reprimand	Reprimand
<p>2. Tardiness of less than one-half hour.</p> <p>NOTE: Counseling or an oral admonishment is normally used for a first occurrence of tardiness. A fourth offense would typically result in a suspension of 5 days or less with the added warning that a "continuation of offenses could result in removal."</p>	Reprimand	Reprimand	1-day suspension
<p>3. Tardiness of one-half hour or more, leaving the job without permission, delayed return from lunch, unauthorized absence of 8 hours or less.</p>	Reprimand	Reprimand to 5-day suspension	Reprimand to removal
<p>4. Unauthorized absence of more than 8 hours.</p> <p>NOTE: A removal using adverse action procedures in this regulation, may be initiated for a first or later offense after passage of a reasonable time (a minimum of 10 calendar days) when the employee fails to report for duty and fails to notify management of his or her intentions concerning return to duty, and when management has been unable to ascertain the employee's intentions concerning return. The Air Force does not remove an employee for abandonment of position.</p>	Reprimand to 5-Day Suspension	Reprimand to 14-Day Suspension	5-Day Suspension to Removal

5. Failure to request leave according to established procedures, or failure to honor a valid denial of a leave request.	Reprimand to 5-Day Suspension	Reprimand to 14-Day Suspension	5-Day Suspension to Removal
6a. Failure to observe safety practices including failure to use safety equipment such as eye protection devices and failure to comply with hearing conservation program requirements.	Reprimand to 1-Day Suspension	Reprimand to 5-Day Suspension	Reprimand to Removal
6b. When failure may result in serious injury, loss of life, or major damage to property.	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
7a. Violation of security regulations when the breach does not result in release of security information to unauthorized sources and there is no evidence of a compromise of classified information.	Reprimand	Reprimand to 30-Day Suspension	10-Day Suspension to Removal
7b. If violation is intentional or results in unauthorized release or compromise of security information.	Reprimand to Removal	14-Day Suspension to Removal	30-Day Suspension to Removal
8a. Drinking, transferring, or selling alcoholic beverages on duty or on government premises except where authorized. Reporting for duty under the influence of intoxicating liquor.	Reprimand to Removal	5-Day Suspension to Removal	14-Day Suspension to Removal
8b. Being on duty so intoxicated or under the influence of alcohol or drugs as to be unable to properly perform assigned duties, or to be a hazard to self or others.	Reprimand to Removal	5-Day Suspension to Removal	14-Day Suspension to Removal
8c. Driving while intoxicated or under the influence of alcohol or drugs. NOTE: See AFI 36-810, Drug and Alcohol Abuse Prevention and Control Program.	Reprimand to Removal	5-Day Suspension to Removal	14-Day Suspension to Removal
9a. Gambling during work-hours.	Reprimand	Reprimand to 5-Day Suspension	Reprimand to Removal
9b. Promotion of or assisting in operation of organized gambling on duty or on government premises.	Reprimand to Removal	5-Day Suspension to Removal	10-Day Suspension to Removal
10a. Loafing or sleeping on duty.	Reprimand	Reprimand to 14-Day Suspension	Reprimand to Removal
10b. When such action may result in injury, loss of life, or damage to property.	Reprimand to Removal	5-Day Suspension to Removal	10-Day Suspension to Removal
11a. While on government premises or on duty, possessing, transferring, selling, or using drug abuse paraphernalia as defined in AFI 36-810.	Reprimand to Removal	14-Day Suspension to Removal	Removal
11b. Possession of illegal drugs.	Reprimand to Removal	Removal	

<p>11c. Use of illegal drugs.</p> <p>1. Refusal to obtain or successfully complete counseling or rehabilitation.</p>	<p>Reprimand to Removal</p> <p>Removal</p>	<p>Removal</p>	
<p>11d. Sale or transfer of illegal drugs.</p>	<p>Removal</p>		
<p>11e. Tampering with urine specimen, including attempts to alter, adulterate, or substitute a specimen for the employee's own or that of another employee.</p>	<p>Removal</p>		
<p>11f. Refusal to submit to urinalysis.</p> <p>NOTES:</p> <p>a. See AFI 36-810, Drug and Alcohol Abuse Prevention and Control Program.</p> <p>b. The term "illegal drugs" means a controlled substance included in Schedules I through V, as defined by section 802(b) of Title 21 of the United States Code, the possession of which is unlawful under section 841 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.</p> <p>c. The range of disciplinary actions for first offense of illegal drug use is reprimand to removal; oral admonishment as a penalty is not authorized.</p> <p>d. Initiation of removal from Federal service according to AFI 36-810 is required:</p> <ol style="list-style-type: none"> 1. if an employee refuses to obtain or successfully complete counseling or rehabilitation; or 2. after a second finding that an employee has used illegal drugs, including a second verified positive urinalysis test result; or 3. if an employee tampers with a urine sample. 	<p>Reprimand to Removal</p>	<p>Removal</p>	

12. Making false, malicious, or unfounded statements against other employees, supervisors, other officials, or subordinates with the intent to destroy or damage the reputation, authority or official standing of those concerned.	Reprimand to Removal	5-Day Suspension to Removal	10-Day Suspension to Removal
13. Soliciting contributions from other government officers or employees for gifts or presents to those in superior official positions. Accepting gifts or presents offered or presented as contributions from persons in government employ receiving lower salary.	Reprimand	Reprimand to 14-Day Suspension	Reprimand to Removal
14. Rude, Boisterous play which adversely affects production, discipline or morale; use of abusive or offensive language; quarreling or inciting to quarrel; or interfering with the production of others.	Reprimand to Removal	Reprimand to Removal	Reprimand to Removal
15. Theft, actual or attempted.	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
16. Deliberate misrepresentation; falsification, exaggeration or concealment of a material fact in connection with any official document; withholding of material facts in connection with matters under official investigation; refusal to testify or cooperate in an inquiry, investigation, or other official proceeding.	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
17. Fighting, threatening or inflicting bodily harm on another, physical resistance to competent authority or indecent or immoral conduct.	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
18. Discourteous conduct. Includes discourteous conduct to the public.	Reprimand to 5-Day Suspension	Reprimand to 14-Day Suspension	Reprimand to Removal
19. Delay or failure to carry out assigned work or instruction in a reasonable period of time.	Reprimand	Reprimand to 5-Day Suspension	Reprimand to Removal
20. Insubordinate defiance of authority, refusal to comply with proper orders, wanton disregard of directives or insolence.	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
21a. Loss of, damage to, unauthorized use or destruction of property (including motor vehicles and aircraft), records or information.	Reprimand	Reprimand to 5-Day Suspension	Reprimand to Removal

21b. When willfulness or intent is involved. NOTE: 31 U.S.C. 638a(c) provides that any officer or employee who willfully uses or authorizes use of government passenger motor vehicles or aircraft for other than official purposes will be suspended for not less than 1 month and will be suspended for a longer period or removed if circumstances warrant. (The minimum 1-month period is established as the effective date of the suspension through the tour of duty for the preceding date of the next month. Examples: 15 July through 14 August or, if the employee's tour of duty is at night and includes portions of 2 days, from the time the tour of duty begins on 15 July through the end of the tour of duty on 15 August.)	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
22. Calling or participating in a strike, work stoppage, or slowdown.	Removal		
23. Picketing if such action interferes with agency operations.	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
24. Careless workmanship or negligence:	Reprimand	Reprimand to 5-Day Suspension	Reprimand to Removal
a. When consequences may be extreme, an attempt is made to conceal defective work or there is an unauthorized attempt to remove or destroy work.	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
b. Which results in possible or actual minimum damage to aircraft or other property and minor disruption of mission.	Reprimand	Reprimand to 5-Day Suspension	Reprimand to Removal
c. Which results in possible or actual major damage to aircraft or other property or possible or actual danger to personnel.	Reprimand to Removal	Reprimand to Removal	5-Day Suspension to Removal
25a. Off duty misconduct of such major import that the employee is unable to fulfill his or her job responsibilities.	Reprimand to Removal	Reprimand to Removal	Reprimand to Removal
25b. Off duty misconduct of such significance that there is an adverse effect upon the Air Force. NOTE: Removal is normally warranted when US citizens employed overseas become culpably involved with the law enforcement authorities of a host government in whose country the USAF facility is a guest. Such involvement reflects upon the United States and affects the success of its mission overseas.	Reprimand to Removal	Reprimand to Removal	Reprimand to Removal

26. Aiding and assisting in prosecution of claim against the United States, or receiving any gratuity or any share of or interest in claim from any claimant other than in discharge of proper official duties.	Reprimand to Removal	14-Day Suspension to Removal	Removal
27a. Compromise or discredit of examination materials or process resulting from discussion of specific question(s) or content of examination with other employee(s) based on experience in the examination when there is no deliberate effort or intent to compromise the examination materials or process.	Reprimand	Reprimand to 14-Day Suspension	5-Day Suspension to Removal
27b. Compromise of an examination through unauthorized possession, use, or furnishing to others of examination information or materials.	Reprimand to Removal	14-Day Suspension to Removal	Removal
28a. Committing a prohibited personnel practice (see 5 U.S.C. 2302)	Reprimand to 5-Day Suspension	Reprimand to 14-Day Suspension	Reprimand to Removal
28b. If violation was deliberate. NOTE: If a supervisor or manager has engaged in an activity which adversely reflects upon the integrity of the management process, a decision should be made as to whether he or she should be reassigned or changed to lower grade to a position of a different character.	Reprimand to Removal	Removal	
29a. Discrimination based on race, color, religion, sex, national origin, age, or handicapping condition. Includes sexual harassment. Also includes making racial or ethnic slurs, or disseminating literature containing such slurs. Consider circumstances and the effect on the person(s) discriminated against, use of abusive language, violent treatment, or insulting demeanor.	Reprimand to 5-Day Suspension	Reprimand to 14-Day Suspension	10-Day Suspension to Removal
29b. If the discrimination was deliberate. NOTE: If a supervisor or manager has engaged in an act of discrimination, a decision should be made as to whether he or she should be reassigned or changed to lower grade to a position of a different character.	Reprimand to Removal	Removal	
30a. Use of abusive or offensive language toward a subordinate; baiting or otherwise inciting a subordinate to violate rules or regulations; coercion in deprivation of an employee's rights; or reprisal for employment of appellate procedures.	Reprimand to 5-Day Suspension	Reprimand to 14-Day Suspension	10-Day Suspension to Removal

<p>30b. If violation was deliberate.</p> <p>NOTE: If a supervisor or manager has engaged in an activity which adversely reflects upon the integrity of the management process, a decision should be made as to whether he or she should be reassigned or changed to lower grade to a position of a different character.</p>	<p>Reprimand to Removal</p>	<p>Removal</p>	
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Attachment 4

SELECTING THE PENALTY

Use this attachment along with **Attachment 3**. It shows the interrelationships of some key factors in the disciplinary system but neither establishes additional procedural requirements nor automatically sets penalties. Other factors may also be weighed.

<p>Information on how basic penalty¹ was derived and on how favorable elements² were considered need not be included in notices but must be available for subsequent use.³</p>	<p>Information must be included in the notices of any consideration used to increase the severity of the basic penalty.⁴</p>
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<p>1. Basic penalty is the one that would be used if there were no other considerations. It is based on:</p> <ul style="list-style-type: none"> a. Offense: <ul style="list-style-type: none"> 1. Character. 2. Seriousness. 3. Consequences. b. Rehabilitative potential of penalty. c. Character of employee's position. 	<p>2. Favorable elements are those considerations which tend toward the imposition of less severe penalties. Included are:</p> <ul style="list-style-type: none"> a. Situation. <ul style="list-style-type: none"> 1. Possibility of genuine misunderstanding. 2. Enticements or provocations. 3. Mitigating circumstances. b. Employee: <ul style="list-style-type: none"> 1. Length of service. 2. Quality of work history. 3. Personal reputation. 4. Past contributions. 5. Record of cooperativeness. 6. Record of achievements. 	<p>3. Unfavorable elements are considerations which tend to show a need for more severe action than is usually taken. Included are:</p> <ul style="list-style-type: none"> a. Penalties for past offenses within: <ul style="list-style-type: none"> 1. Suspension - 3 years. 2. Reprimand - 2 years. 3. Admonishment - 2 years.⁵ b. Combination of offenses. c. Series of offenses. d. Character of other offenses. e. Recency of other offenses. f. Employee willfulness. 	<p>4. Penalty assessed results from weighing of favorable and unfavorable factors in relationship to the offense.</p> <ul style="list-style-type: none"> a. Proposed penalty is determined on the basis of all information available at time of institution of action, and penalty is specifically stated in notice of proposed action. b. Penalty decided upon is determined based on all available information including employee's answer to notice of proposed action. Give consideration to request for compassion. State penalty decided upon and effective date in notice of decision.
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NOTES:

1. Determine by reference to **Section F** of this instruction and to comparable offenses in **Attachment 3**.
2. See paragraph **32.2.** of the instruction.

3. See paragraph **10.2.1.** of the instruction.
4. See paragraphs **34., 35., 36.,** and **37.** of the instruction.
5. An oral admonishment may be used only under limited circumstances. See paragraph **37.**